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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/757,901	01/10/2001	Reiner Kraft	IBMI-05-053A	8326
36872	7590	04/17/2006	EXAMINER	
THE LAW OFFICES OF ANDREW D. FORTNEY, PH.D., P.C.			LASTRA, DANIEL	
7257 N. MAPLE AVENUE			ART UNIT	PAPER NUMBER
BLDG. D, SUITE 107				
FRESNO, CA 93720			3622	

DATE MAILED: 04/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/757,901	KRAFT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	DANIEL LASTRA	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 06 April 2006.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 31-45 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 31-45 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Claims 31-45 have been examined. Application 09/757,901 (PERSONALIZED PROFILE BASED ADVERTISING SYSTEM AND METHOD WITH INTEGRATION OF PHYSICAL LOCATION USING GPS) has a filing date 01/10/01.

#### ***Response to Amendment***

2. In response to Notice to the applicant regarding a Non-Compliant Amendment filed 01/25/2006, the Applicant cancel claims 9, 10, 12-16, 23-30 and added new claims 31-45. Applicant amendment contains a typographical error, when it mentions in page 7 that claims 38-30 were cancel, where it should recite that claims 23-30 were cancel. The Applicant needs to include a statement in the next office action correcting said error.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 31, 35, 38 and 42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 31, 35, 38 and 42 recite a "map providing directional information to an item that is not present within the sales location". Said claims are indefinite because that it seems to recite that a system can give directions to a users to locate an item that is not present or is out of stock. For purpose of art rejection, said limitation would be interpreted as displaying a map of a store aisle layout.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 31, 32, 35, 37, 38, 39, 42 and 43 are rejected under 35 U.S.C. 102(e) as being anticipated by Ogasawara (US 6,123,259).

As per claims 31, 35, 38 and 42, Ogasawara teaches:

A method for personalized profile based advertising associated with a network of hub processing units coupled to a plurality of mobile information processing units over the network, the method of personalized profile based advertising on one of the hub processing units comprising:

receiving location data and user profile data from at least one mobile information processing unit (see column 3, lines 15-50);

determining a presence of at least one item inside a sales location, the at least one item being identified within the user profile data (see column 3, lines 15-50);

generating a personalized advertisement (see column 15, lines 50-67) which includes one of.

a map providing directional information to an inner position within the sales location of the at least one item in response to the at least one item being present inside the sales location (see column 9, lines 25-45)

a map providing directional information to an inner aisle layout of the sales location in response to the at least one item being not present within the sales location (see column 9, lines 37-45) and

wherein the map is based upon the location data as well as the user profile data associated with the mobile information processing unit (see column 3, lines 15-50); and  
forwarding the personalized advertisement to the mobile information processing unit for display (see column 15, line 50 – column 16, line 10).

As per claims 32, 37, 39 and 43, Ogasawara teaches:

The method as defined in claim 31, wherein the mobile information processing units comprise at least one of cellular phones, personal data assistants, car computer systems, wireless systems and personal communication devices (see column 2, lines 25-30).

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 33, 40 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara (US 6,123,259) in view of Kelly (US 6,498,987).

As per claims 33, 34, 40, 41, 44 and 45, Ogasawara teaches:

The method as defined in claim 31, wherein generating a advertisement further comprises: but fails to teach adding at least part of the user profile data to the advertisement for display on the mobile information processing unit. However, Kelly teaches a system that adds part of the user profile data to personal advertisements delivered to mobile users (see Kelly column 5, lines 60-65; column 10, lines 10-20; figure 5). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Ogasawara would add part of the user profile, such as the user's name, to the advertisements targeted to the user, as taught by Kelly. This feature would increase the probability that the advertisements targeted to a user would not go wasted, as the advertisements would include user's personalized information, which would increase the probability that the advertisements would grasp the attention of the user.

As per claims 34, 41 and 45, Ogasawara teaches:

The method as defined in claim 33, but fails to teach wherein the adding of at least part of the user profile data for display on the mobile information processing unit includes adding profile data selected from a group of profile data consisting of a name, interests, age, background, education, hobbies and other personalized data relating to a user. However, the same argument made in claim 33 regarding this missing limitation is also made in claim 34.

6. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara (US 6,123,259) in view of Dowling (US 6,522,875).

As per claim 36, Ogasawara teaches:

The method as defined in claim 35, but fails to teach wherein in response to the mobile information processing system being outside the sales location forwarding to the mobile information processing system for display thereon, a directional map to the sales location which includes a personalized advertisement based upon the location data as well as the user profile data associated with the mobile information processing unit. However, Dowling teaches "A geographical web browser has an added advantage of providing a new means for advertising locally available items such as products and services. The user interested in a certain product or service logs into a geographically controlled web site and configures the packet filter to display information related to a user's needs. In one example the mobile unit 105 enters a new city and the user is interested in finding a mall with a particular clothing store within. As the user drives along, a web page comes up and provides directions to the shopping mall and also optionally provides an inside map of the mall to include directions to the desired store. This form of advertising helps both the consumer and the storeowners. Similarly, if the mobile unit 105 is connected to a road-navigation site, new map pages may be periodically downloaded based upon the mobile unit 105's current position" (see column 14, line 58 – column 15, line 10). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Ogasawara would use the users' geographic locations and the users' profile data to target advertisements to the users and as the users drive along, a web page would come up and provides directions to the advertise products that are displayed in the users' mobile

terminals, as taught by Dowling. Providing users with driving directions to the geographic location of advertise products that are displayed in the users' mobile display terminals would increase the probability that the targeted advertisements would not go wasted.

***Response to Arguments***

7. Applicant's arguments with respect to claims 31-45 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*dc*  
Daniel Lastra  
April 10, 2006

*Raquel Alvarez*  
RAQUEL ALVAREZ  
PRIMARY EXAMINER